

111TH CONGRESS
1ST SESSION

H. R. 1701

To amend title 10, United States Code, to direct the Secretary of Defense to establish a special review board for certain former members of the Armed Forces with post-traumatic stress disorder or a traumatic brain injury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2009

Mr. JONES (for himself and Mr. TAYLOR) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to direct the Secretary of Defense to establish a special review board for certain former members of the Armed Forces with post-traumatic stress disorder or a traumatic brain injury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “PTSD/TBI Guarant-

5 teed Review For Heroes Act”.

1 **SEC. 2. SPECIAL REVIEW BOARD.**

2 (a) IN GENERAL.—Chapter 79 of title 10, United
3 States Code, is amended by inserting after section 1553
4 the following new section:

5 **“§ 1553a. Special review board for former members**
6 **with post-traumatic stress disorder or**
7 **traumatic brain injury**

8 “(a) ESTABLISHMENT.—(1) The Secretary of De-
9 fense shall establish within the Office of the Secretary of
10 Defense a board of review to review the discharge or dis-
11 missal (other than a discharge or dismissal by sentence
12 of a general court-martial) of a covered individual. The
13 board shall be known as the ‘special review board’.

14 “(2) The special review board shall consist of not
15 fewer than five members, at least one of whom shall be
16 a health care professional from a field of medicine relevant
17 to the matter being reviewed.

18 “(b) REVIEW.—(1) Upon the request of a covered in-
19 dividual, Member of Congress, or the surviving spouse,
20 next of kin, or legal representative of a covered individual,
21 the special review board may review the discharge or dis-
22 missal of the individual. A request for review shall be made
23 not later than 15 years after the discharge or dismissal.

24 “(2) The review by the special review board under
25 paragraph (1) shall be based on—

1 “(A) the records of the Armed Force concerned,
2 including an evaluation of the actions of the covered
3 individual before and after a deployment in support
4 of a contingency operation;

5 “(B) the treatment or lack of treatment re-
6 ceived by the covered individual for post-traumatic
7 stress disorder or traumatic brain injury; and

8 “(C) such other evidence as may be presented
9 to the board.

10 “(3) A covered individual who requests a review
11 under this section may appear before the board in person
12 or by counsel or an accredited representative of an organi-
13 zation recognized by the Secretary of Veterans Affairs
14 under chapter 59 of title 38.

15 “(4) If the special review board reviews the discharge
16 or dismissal of a covered individual, a service review agen-
17 cy may not review such discharge or dismissal.

18 “(5) If a Member of Congress requests the review of
19 a covered individual under paragraph (1) and the special
20 review board denies such request or does not change the
21 discharge or dismissal of such individual under subsection
22 (c), the special review board shall notify such Member of
23 Congress of the decision and the rationale for such deci-
24 sion.

1 “(c) ACTIONS.—As the result of a review of a covered
2 individual under subsection (b), the special review board
3 may change the discharge or dismissal of the individual
4 to honorable.

5 “(d) CORRECTION OF RECORDS.—The Secretary con-
6 cerned shall correct the military records of a covered indi-
7 vidual in accordance with a change made by the special
8 review board under subsection (c).

9 “(e) REGULATIONS.—(1) This section shall be car-
10 ried out in accordance with regulations prescribed by the
11 Secretary of Defense.

12 “(2) The regulations under paragraph (1) shall speci-
13 fy reasonable deadlines for the performance of reviews re-
14 quired by this section.

15 “(f) DEFINITIONS.—In this section:

16 “(1) The term ‘covered individual’ means a
17 former member of the Armed Forces who—

18 “(A) was deployed in support of a contin-
19 gency operation;

20 “(B) was discharged or dismissed from the
21 Armed Forces under a general or other than
22 honorable condition; and

23 “(C) has been diagnosed by a health care
24 professional with post-traumatic stress disorder
25 or a traumatic brain injury.

1 “(2) The term ‘health care professional’ means
2 a physician, clinical psychologist, or psychiatrist.

3 “(3) The term ‘Member of Congress’ has the
4 meaning given that term in section 1130(d)(1) of
5 this title.

6 “(4) The term ‘service review agency’ has the
7 meaning given that term in section 1559(c) of this
8 title.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 79 of title 10, United States
11 Code, is amended by inserting after the item relating to
12 section 1553 the following new item:

“1553a. Special review board for members with post-traumatic stress disorder
or traumatic brain injury.”.

13 **SEC. 3. EXAMINATION AND EVALUATION OF MEMBERS**
14 **WITH POST-TRAUMATIC STRESS DISORDER**
15 **OR TRAUMATIC BRAIN INJURY.**

16 (a) REFERRAL TO PHYSICAL EVALUATION BOARD;
17 LIMITS ON SEPARATION.—Section 1145(a)(4) of title 10,
18 United States Code, is amended by adding at the end the
19 following new subparagraph:

20 “(C) If a physician, clinical psychologist, psychiatrist,
21 or other appropriate health care professional determines
22 in an examination under this paragraph that a member
23 who was deployed in support of a contingency operation

1 has (or may have) post-traumatic stress disorder or a
2 traumatic brain injury, the Secretary concerned—

3 “(1) shall refer the member for evaluation by a
4 physical evaluation board under section 1222 of this
5 title; and

6 “(2) may not separate the member from an
7 Armed Force until the Secretary considers the re-
8 sults of the evaluation as provided in subsection (d)
9 of such section.”.

10 (b) EVALUATION BY PHYSICAL EVALUATION
11 BOARD.—Section 1222 of title 10, United States Code,
12 is amended by adding at the end the following new sub-
13 section:

14 “(d) EVALUATION FOR POST-TRAUMATIC STRESS
15 DISORDER OR TRAUMATIC BRAIN INJURY.—With respect
16 to a member who is referred under section 1145(a)(4)(C)
17 of this title to a physical evaluation board for evaluation—

18 “(1) if the board determines that the member
19 is unfit to perform the duties of the member’s office,
20 grade, rank, or rating because of post-traumatic
21 stress disorder or traumatic brain injury, the Sec-
22 retary concerned shall retire or separate the member
23 pursuant to this chapter; and

24 “(2) if the board determines that the member
25 is fit to perform the duties of the member’s office,

1 grade, rank, or rating, the Secretary concerned shall
2 take into account the findings of the board in the
3 course of any separation of the member from an
4 Armed Force.”.

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